

ARGUMENTS/REMARKS

These remarks are provided regarding the rejection of claims 1-4, 8-19, 21-24, 27-29, and 31 under 35 U.S.C. §102(e) as being anticipated by LeBreton (U.S. 6,660,214 B2), claims 5-7 under 35 U.S.C. §103(a) as being unpatentable over LeBreton in view of Wiltshire (U.S. 4,101,254), and claims 15-26, 30, and 32-34 under 35 U.S.C. §103(a) as being unpatentable over LeBreton in view of Murphy (U.S. 6,171,423).

In the response of July 12, 2004, we argued that the LeBreton '214 reference is by the same inventor as the current application, and thus cannot be cited against the application under 35 U.S.C. §102(e). Since that response, we filed a petition under 37 C.F.R. §1.78 to accept an accompanying amendment for amending the specification of this application to add a referral claiming priority from the prior provisional application Serial No. 60/271,289, filed on February 23, 2001. That petition was granted. Accordingly, the current application now enjoys the priority date of that provisional application.

Accordingly, LeBreton '214, which claims priority from the same provisional application, is no longer prior art under 35 U.S.C. §102(e), and thus the rejections are improper. Furthermore, there is no longer any need for applicant to provide a Declaration or Affidavit discussed in the prior response. Consequently, claims 1-34 are patentable over the above cited references.

Regarding the rejections of claim 14 under 35 U.S.C. §103(a) as being unpatentable over Murphy in view of Carter *et al.* (U.S. 2003/0111473 A1), the rejection of claim 22 under §103(a) as being unpatentable over Murphy in view of Reyes and further in view of Carter, and the rejection of claim 31 under §103(a) as being unpatentable over Murphy in view of Wiltshire, and further in view of Carter and Reyes, the Carter reference is not prior art because it has a priority date of October 12, 2001, subsequent to the priority date of this application. Thus, claims 14, 22, and 31 are

Appl. No. 10/074,449
Amdt. Dated July 12 2004
Supplemental Reply to Office action of March 12, 2004

patentable over the above cited references.

The above claims are also be patentable for the additional reasons discussed in the response of July 12, 2004. The remaining claims are also patentable for reasons discussed in that response.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 32285.

Respectfully submitted,

PEARNE & GORDON, LLP

By: 

Robert F. Bodi, Reg. No. 48,540

1801 East 9th Street, Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

October 20, 2004